

REMARKS

Claims 1-22 are pending, with claims 2, 4-6, and 22 rejected, and claims 1, 3, and 7-21 withdrawn from consideration.

Claims 2 and 4

Claim 2 is rejected under 35 USC 103(a) as being unpatentable over Tauchi (U.S. Patent No. 5,966,939) in view of Hayes (U.S. Patent No. 6,077,380), further in view of Ouellet et al. (U.S. Patent Pub. No. 2004/0067604; newly cited). Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Tauchi, Hayes, and Ouellet in view of Kuramoto (U.S. Patent Publication No. 2001/0020744).

Ouellet has an original filing date of October 4, 2002. However, Applicant invented the presently claimed invention before that date. As evidence of this fact, submitted herewith are Declarations of Axel Shubert (Exhibit 2) and Dr. Felix Gross (Exhibit 1) Under 37 C.F.R. 1.131, along with supporting Exhibits A-E.

Applicant conceived the invention covered by the claimed invention prior to October 4, 2002, as evidenced by Exhibit B (attached to the Declaration of Dr. Gross, Exhibit 1), which is an Invention Disclosure, and an English translation thereof. This document is described in the Dr. Gross' Declaration and shows that the Applicant conceived the invention prior to October 4, 2002.

Exhibit D is a verified translation of the priority application from which the present application claims benefit under Section 119. The preparation of the present application covering the claimed invention was diligently pursued from prior to October 4, 2002, to the date of filing in Germany, February 27, 2003, and the present application was filed within one year of the German priority application, in accordance with the Paris Convention requirements.

The verification of the translations (Exhibit 3) refers to "Exhibits A, B, and C." The "Exhibit D" referenced in the Gross Rule 1.131 Declaration is a verified translation of the priority

document. The “Exhibit E” referred to in the Schubert Rule 1.131 Declaration is the U.S. Declaration originally filed with this application, which is, of course, already in English. In any event, each of the translations submitted with the Rule 1.131 Declarations is a verified translation.

In view of the above-mentioned evidence of Applicant’s conception and reduction to practice of the claimed invention before Ouellet’s original filing date, these rejections based upon 35 U.S.C. 103(a) should be withdrawn.

Claims 5, 6, and 22

Claims 5, 6, and 22 are rejected under 35 USC 103(a) as being unpatentable over Tauchi in view of Hayes.

Amended independent claim 5 recites “an orientation of a layer arrangement of the thermoelectric material and the solder of each of the at least two substrates is alternatingly spaced between the thermoelectric material of the other of the at least two substrates.” As illustrated in Fig. 7, the orientation of the layer arrangement of the first bismuth layer 11/first patterned thermoelectric 14 is alternatingly spaced with that of the second bismuth layer 21/second patterned thermoelectric 24. The applied references do not suggest this feature. Thus, independent claim 5, along with dependent claims 6 and 22 is patentable over the applied references for at least this reason.

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In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By 
Laura C. Brutman

Registration No.: 38,395
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant